Supreme Court, U.S.
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CASE NO._____

IN THE SUPREME COURT
OF THE UNITED STATES OF AMERICA

NORRIS SMITH,

Petitioner,

v.

JEFFERSON PARISH, CONSOLIDATED RECREATION AND COMMUNITY CENTER AND PLAYGROUND DISTRICT NUMBER 1 OF THE PARISH OF JEFFERSON; ET AL., TIM COULON Jefferson Parish President, in his Official and Individual Capacity; MICHAEL QUIGLEY, Director of the Jefferson Parish Park and Recreation Department and/or Consolidated Recreation and Community Center and Playground District Number 1, in His Official and Individual Capacity; KEVIN O' QUINN in His Official and Individual Capacity, and SCOTT MUHOBERAC Individually,

Respondents

On Petition for Writ of Certiorari To The United States Court of Appeal For The Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

This case revolves around civil service rules and regulation regarding promoting a classified civil servant and government discrimination. Under the Article 10 Section 7 of the Louisiana Constitution and the civil service rules, regulation and ordinance, promotion of a classified civil servant should be based upon merit, efficiency, fitness, and length of service, and the director of the civil service department shall reject any application of any person who is found to lack any of the qualification. Jefferson Parish Government promoted a less qualified White male over petitioner-- a member of a protected group. The District Court affirmed by the Fifth Circuit Court of Appeal failed to address the strict civil service rules and regulation regarding placement and promotions, and failed to address federal questions regarding governmental discrimination, retaliation and a hostile work environment of civil servants as it relates to equal protection of the law.

There are also a contradiction and conflict of the law regarding cross motions for summary judgments when discriminatory intent and motive are the nebulous and substantive law. The contradiction is if the lower court denies a party's motion for summary judgment, then there are genuine issues of material fact in dispute and the case must go to trial. On the contrary and in the same premise, if the lower court grants a party's motion for summary judgment then there are no issues of material fact. This court must address the issue of cross motions for summary judgment, for there cannot be a denial of one party's motion for summary judgment and a granting of the other party's motion for summary judgment. The issues for review are:

1. Does the Jefferson Parish Government's deviation from Louisiana Constitution and strict civil service regulation regarding promotion violate the Equal Protection Clause of both the Fourteenth Amendment of the United States Constitution and Article 1 Section 3 the Louisiana Constitution, Title VII of the Civil Rights Act of 1964 as amended 1991 (42 U. S. C. Section 2000e) and in turn violated 42 U. S. C. Section 1983?

2. Whether Jefferson Parish Government and its employees violated petitioner's equal protection of the law when they conspired to impeded petitioner's career advancement (promotion) because of race, and then retaliated against him for reporting the discrimination.

3. Whether the government's withholding evidence from petitioner regarding another candidate's qualifications was admissible to prove intent and motive as pursuant to Rule 404(b) of the Federal Rules of Evidence. Whether deviation from the strict civil service rules regarding promotion, affidavit, statements from former employees and deposition of a former employee stating Jefferson Parish Government and its employees testifying that Jefferson Parish conspired to discriminate and retaliate against petitioner was admissible for other purposes such as proof of motive and intent as pursuant to Rule 404(b) of the Federal Rules of Evidence

4. Whether Rule 56 of the Federal Rules of Civil Procedure is violated when the lower court denies one parties motion for summary judgment indicating disputed issues of material facts, and then grants another parties motion for summary judgment indicating no disputed issues of material facts.

5. Does summary judgment circumvents and violates the right to trial by jury as pursuit to the 7th Amendment of the United State Constitution and 42 U. S.C. 1981.

LIST OF PARTIES

Names of all parties appear in the caption of the case.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED FOR REVIEW	i, ii
LIST OF PARTIES	iii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	vii
REFERENCE TO THE OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS	1
STATEMENT OF THE GROUNDS ON WHICH JURISDICTION OF THE SUPREME COURT IS INVOLVED	1
THE STATUTES AND REGULATIONS INVOLVED IN THE CASE	1
STATEMENT OF THE CASE	2
SUMMARY OF THE ARGUMENT	7, 8
REASONS FOR GRANTING THE WRIT	9
I. JEFFERSON PARISH GOVERNMENT'S DEVIATION FROM THE LOUISIANA CONSTITUTION AND CIVIL SERVICE REGULATIONS REGARDING PROMOTIONS VIOLATED THE EQUAL PROTECTION CLAUSE OF BOTH FEDERAL AND STATE CONSTITUTIONS	9

A. The decision below conflicts with decisions of this Court on important issues that has created substantial uncertainty in the lower courts regarding equal protection of law as it relates to governmental discrimination and retaliation against civil service. 9

II. CERTIORARI SHOULD BE GRANTED TO RESOLVE THE CONFLICT AMONG THE CIRCUITS RELATIVE TO PROVING PRETEXT IN CIVIL SERVICE DISCRIMINATION CASE. . 13

A. Cases on point regarding pretextual Promotions in conjunction with The Civil Service Rules and Regulation. . . 13

III. CERTIORARI SHOULD BE GRANTED TO RESOLVE THE CONFLICT AND CONTRADICTION OF LAW AMONG THE CIRCUITS RELATIVE TO CROSS MOTIONS FOR SUMMARY JUDGMENT REGARDING PRETEXT AND ITS CIRCUMVENTION TO A TRIAL BY JURY. 22

A. The decision below conflicts with decisions of this Court on important issues that has created substantial uncertainty in the lower courts. The lower court's decision affects federal procedure, and the constitutional right to a trial by jury which is being circumvented by summary judgment proceedings. 22

IV. CERTIORARI SHOULD BE GRANTED TO CLARIFY WHETHER THE GOVERNMENT'S WITHHOLDING OF ANOTHER CANDIDATES QUALIFICATION, THE DEVIATIONS FROM THE CIVIL SERVICE REGULATION, TRANSCRIPTS FROM FORMER EMPLOYEES WAS ADMISSIBLE FOR OTHER PURPOSES SUCH AS PROOF OF MOTIVE AND INTENT AS PURSUANT TO RULE 404(b) OF THE FEDERAL RULES OF EVIDENCE. 25

V. CERTIORARI SHOULD BE GRANTED TO CLARIFY AND RESOLVE THE ISSUE WHETHER SUMMARY JUDGMENT CIRCUMVENTS THE RIGHT TO TRIAL BY JURY. 27

A. The decision below conflicts with prior decision regarding the right to trial by jury in discrimination cases. Summary judgment circumvents the right to trial by jury. . .. 27

CONCLUSION 30

APPENDIX

TABLE OF CASES AND AUTHORITIES

PAGE

Adickes v. Kress & Co.,
398 U.S. 144, 90 S.Ct. 1598, 26 L.Ed. 142 (1970) . . 24, 30
Aetna Ins. Co. v. Kennedy,
301 U.S. 389, 57 S.Ct. 809, 81 L.Ed 1177 (1937) .28
Akos Swierkiewicz v. Somema N. A.,
534 U. S. 506, 122 S. Ct 992, 152 L. Ed 2d 1(2002) . . . 15
Anderson v. Liberty Lobby, Inc.,
477 U.S. 242, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986) . . . 24
Bailey v. Formosa Plastics Corp,
1997 U. S. Dist. Lexis 10713, 94-1447 27
Beacon Theatres, Inc. v. Westover
359 U.S. 500, 79 S.Ct. 948, 3 L.Ed.2d 988(1959) . 28
Boeing Co v. Shipman, 411 F. 2d 365 (5th Cir. 1969) 15
Borgh v. Gentry,
953 F.2d 1309, 1311 (11th Cir. 1992) 28
Celotex Corp. v. Catrett,
477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986) . . . 23
Chipollini v. Spencer Gifts,
814 F. 2d 893, 897 (3rd Cir. 1987) 14, 15
City of Morgantown v. Royal Ins. Co.,
337 U.S. 254, 69 S.Ct. 1067, 93 L.Ed 1347 (1949) 28
Civil Service Com'n of New Orleans v. City of New Orleans, 854 So. 2d 322, 2002-1812 (La. 9/9/03) 21
Coleman v. Houston Independent School District,
113 F. 3d 528 (5th Cir 1997) 11
Roth v. Public Employees Retirement Board, 44 Ohio App. 2d 155 (1974) (Secondary authority) 11

Cox v. C.H. [illegible] and and Sons, Inc.
607 F.2d 138 (5th Cir. 1979). 29
Cole v. Chevron Chemical Co.,
427 F. 2d 390 (5th Cir. 1970) 24
Curtis v. Loether,
415 U.S. 189, 94 S.Ct. 1005, 39 L.Ed 2d 260 (1974) . . . 28
Davis v. Chevron U.S.A.Inc., 14 F.3d 1082,1085
(5th Cir. 1994). 16
Estes v. Dick Smith Ford, Inc,
856 F. 2d 1097, 1103 (8th Cir. 1988) 27
Hampton v. Borough of Tinton Falls Police
Department et al.,98 F. 3d 107 (3rd Cir. 1996). 17, 18
Hazen Paper Co., v. Biggins,
507 U. S. 604, 113 S. Ct. 1843, 52 L. Ed 2d 396 (1993) 12
Gilbert v. City of Little Rock Arkansas,
722 F 2d 1390 (8th Cir. 1983) 18, 19
Ingle v. Thiohol Corp., 42 F. 3d 622 (10th Cir. 1994). . . . 20
International Brotherhood of Teamsters v. United States,
431 U. S. 324, 326 97 S. Ct 1843, 52 L. Ed 2d 396
(1977) 12,. 15
Jones v. Helms, 452 U.S. 412 (1981). 11
Jones v. W. Geophysical Co. of Am.,
669 F. 2d 280, 283 (5th Cir. 1982) 24
Kelley v. Boeing Petroleum Services, Inc.,
61 F. 3d 350, 360 (1995) 26
Landgraf v. USI Film Product,
507 U.S.343 (1994) 29
Lytle v. Household Mfg., Inc.,
494 U.S. 545, 110 S. Ct. 1331, 108 L.Ed 2d 504 (1990) 28
McDonnell Douglas Corp. v. Green,
411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973) 14

Evans v. City of Houston, 246 F. 3d 344 (5th Cir 2001) 13 14
McDonald v. Santa Fe Trail Transportation Co.,
427 U. S. 273, 282-83 96 S. Ct. 2574, 49 L. Ed 2d 493
(1976). 14
Moore v. Ware, 800 So. 2d 99 (La. App 2nd 10/31/01) 11
Maurice v. Dept. of Police, App.
4th Cir. 1995 94-2368 (La App 4th Cir. 6/7/95
657 So. 2d 501 22
Murray v. Rumsfeld, 35 FEP 1167 (DC 1981) 20
O'Conner v. Consolidated Coin Caterers Corp.,
517 U. S. 308, 116 S Ct. 1307, 134 L. Ed 2d 433 (1996) . 15
Perkins v. Spivey v. General Motors Corporation,
911 F.2d 2d 22 (8th Cir. 1990) 28
Pembina v. Consolidated Silver Mining & Milling Co.,
125 U. S. 181 (1888). 11
Poller v. Columbia Broadcasting System, Inc.,
368 U.S. 464, 82 S.Ct 486, 7 L.Ed. 458, (1962) 24
Randle v. City of Aurora, 69 F 3d 441 (10th Cir. 1995) . . . 20
Reeves v. Sanderson Plumbing Product, Inc.,
530 U. S. 133 120 S. Cr. 2097 147 L. Ed 2d 105 (2000) . . 15
Rhodes v. Guiberson Oil Tools,
75 F 3d 989 (5th Cir. 1996) 15
Roscello v. Southwest Airlines Company,
726 F.2d 217 (5th Cir. 1984) 29
Taylor v. United Regional Health Care Systems, Inc. 2001
WL 1012803, at 3 (N.D. Tx. August 14, 2001). 24
Texas Department of Community Affairs v.Burdine,
450 U.S. 248, 101 S.Ct.1089, 67 L.Ed 2d 403 (1983) . . . 14
United States v. Deibold,
369 U.S. 654, 82 S.Ct. 993, 8 L.Ed.2d. 176 (1962) 24
United States v. Matagorda County Tx.,
191 F. Supp 2d 673 (S D Tx 2002) 24

United States Postal Service Board of Governor v. Aikens, 460 U.S. 711, 103 S.Ct. 1478
75 L.Ed.2d 403 (1983) 17
Western Elec. Co. V. Milgo Elec. Corp.,
573 F.2d 255, 257(5th Cir. 1978) cert denied..... 29
Wilson v. Belmont Homes, Inc.,
970 F.2d (5th Cir. 1992) 29

U.S. Constitution

Seventh Amendment of the U. S. Constitution 27
Fourteenth Amendment of the U. S. Constitution 1, 10
Article 1 Section 3 of the Louisiana Constitution 2, 10
Article 10 Section 7 of the Louisiana Constitution 4, 9

Statutes

28 U.S.C. section 1254(1). 1
42 U.S.C. Section 2000e-5. 7
42 U.S.C. Section 1981(a) (c) 29
Section 704 of Title VII, 42 U.S.C. section 2000(a). . .27, 28
Rule 56 of the Federal Rules of Civil Procedure. 23
Rule 404(b) of the Federal Rules of Evidence 8, 26

Treatise

Deberah C Malamud, *the Last Minuet: Disparate Treatment After Hicks,* 93 Mich. L. Rev. 2229, 2305 (1995) 16

PETITION FOR WRIT OF CERTIORARI

Norris Smith petitions this Court to issue a writ of certiorari to review a judgment of the United States Court of Appeals for the Fifth Circuit affirming the summary judgment entered in the United States District Court for the Eastern District of Louisiana.

REFERENCE TO THE OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS

As far as Plaintiff is aware, the district court and court of appeals decisions are unreported. Both decisions are reproduced in the appendix.

STATEMENT OF THE GROUNDS ON WHICH JURISDICTION OF THE SUPREME COURT IS INVOKED.

The date of Decisions of U. S. Court of Appeals for the Fifth Circuit sought to be reviewed: May 23, 2005. The statutory provision believed to confer on this Court jurisdiction to review by writ of certiorari is 28 U.S.C. section 1254(1) et seq.

CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS INVOLVED IN THE CASE

Fourteenth Amendment of the U. S. Constitution

No State shall . . . deny to any person within jurisdiction the equal protection of the law

Article I, Section 3 of the Louisiana Constitution:

No person shall be denied the equal protection of the law. . .

42 U.S.C. Section 1983
Section 704 of Title VII, 42 U.S.C. section 2000(e)
Rule 56 of the Federal Rules of Civil Procedure
Article 10 Section 7 of the Louisiana Constitution,
Rule VI, 3.5 (A-1), Ordinance Number 11744
(8/1/74)

CONCISE STATEMENT OF THE CASE

This action is brought in part under the Equal Protection Clause of both the Federal Constitution and State Constitution, 42 U. S. C. Section 1983 and 42 U. S. C. Section 2000e, and for clarification relating to cross motion for summary judgment regarding governmental discrimination and retaliation against a classified civil servant. Petitioner, Norris Smith a classified civil servant with Jefferson Parish government applied for and was denied a promotion for a supervisor position. Jefferson Parish and its employees discriminated against Smith by failing to promote, and then retaliated against him for reporting the illegal employment practice of discrimination. After Smith was denied the promotion, Smith filed a formal complaint/appeal with Jefferson Parish Government. Jefferson Parish denied a hearing because plaintiff did not specifically plea discrimination. Smith met with Jefferson Parish President--Tim Coulon. Tim Coulon showed deliberate indifference to petitioner's complaint.